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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,186	09/08/2000	Steven Metsker	05793.3041-00	3333
22852 7590 04/30/2007 FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			EXAMINER HAVAN, THU THAO	
			ART UNIT 3691	PAPER NUMBER
			MAIL DATE 04/30/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/658,186

Applicant(s)

METSKER ET AL.

Examiner

Thu Thao Havan

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-30, 32-48 and 50-54 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12, 14-30, 32-48, and 50-54 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

Claims 1-12, 14-30, 32-48, and 50-54 are pending. This action is in response to the remarks received February 5, 2007.

### ***Response to Arguments***

The rejection of claims 1-12, 14-30, 32-48, and 50-54 under 35 U.S.C. 103(a) as being unpatentable by Gershman et al. (US 6,401,085) and Eggleston (US 6,061,660) is maintained.

Upon a closer examination, Applicant's arguments filed February 5, 2007 have been fully considered but they are not persuasive.

In response to the arguments concerning the previously rejected claims the following comments are made:

Applicant alleges that the prior art made of record fails to teach solicitations, url, and offer code. The examiner disagrees with applicant's representative since Eggleston teaches solicitations, url, and offer code in relation to incentive programs and award fulfillment (col. 13, line 43 to col. 14, line 5 (i.e. solicitations); col. 14, lines 6-19, col. 15, lines 26-59; figs. 1 (i.e. url) and 10-17; col. 1, line 63 to col. 2, line 8 (i.e. offering code)). For clarification, in figures 10-17, Eggleston displays a promotion sample having the consumers enter the code with an incentive promotion n. He discloses the code for the incentive program. In that, the sponsor database is updated to reflect the presence of the new incentive program, and the sponsor site is updated to include a link (i.e. url) to the new

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incentive program. There are several ways in which the online code can be embedded into the website of the sponsoring firm such as the sponsoring firm may receive instructions on how to the place of HTML tags in desired locations throughout the site. The sponsor or the sponsor's webmaster could leave a port open through which the incentive firm could embed the code in designated areas. Thus, he discloses solicitations when he discloses incentive programs such as including advertising or product logos as part of the graphical object viewed by the consumer when playing an incentive program. Solicitation is the act of enticing a person to do something therefore the incentive program is an enticing program. As for the url, Eggleston teaches a sponsor initiates participation through the sponsor computer by accessing a web browser and entering the URL of the sponsor site. In addition, Eggleston teaches offer code when he discloses the offer promotions as explained above.

With regards to the claims rejected as taught by Gershman and Eggleston, the examiner would like to point out that the reference teaches the claimed limitations and thus provides adequate support for the claimed limitations. Therefore, the examiner maintains that Gershman and Eggleston taught the claimed limitations.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 14-30, 32-48, and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gershman et al. (US 6,401,085) in view of Eggleston (US 6,061,660).

Re claims 1, 12, 16, 19, 30, 34, 37, 48, and 52, Gershman teaches a method for providing...web-based offers and receiving corresponding responses thereto (col. 38, line 50 to col. 39, line 25: *Gershman teaches solicitations when he discloses web sites that effectively attract customers in col. 39, line 14*) comprising:

...a set of users sharing pre-selected characteristics...(col. 37, line 55 to col. 38, line 50);

receiving a request to access the web site...(figs. 10a-10b and 14-15);

providing, via the accessed web site, an offer to at least one of the users (col. 40, lines 4-67: *Gershman matches the product to the code*); and

receiving, via the accessed web site, a response to the offer from at least one of the users (col. 40, line 55 to col. 41, line 50: *Gershman discloses promotional products according to the user's profile*).

However, Gershman does not explicitly teach solicitations, url, and offer code. On the other hand, Eggleston discloses solicitations, url, and offer code in relation to incentive programs and award fulfillment (col. 13, line 43 to col. 14, line 5 (i.e. solicitations); col. 14, lines 6-19, col. 15, lines 26-59; figs. 1 (i.e. url) and 10; col. 1, line 63 to col. 2, line 8 (i.e. offering code)). He discloses solicitations when he discloses incentive programs such as including advertising or product logos as part of the graphical object viewed by the consumer when playing an incentive program. As for the url, Eggleston teaches a sponsor initiates participation through the sponsor computer by accessing a web browser and

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entering the URL of the sponsor site. In addition, Eggleston teaches offer code when he discloses offer promotions. Thus, it would have been obvious to one of ordinary skill in the art to include solicitations, url, and offer code in relation to incentive programs in an internet system to promote products as discloses in Eggleston.

Re claims **2, 20, and 38**, Gershman teaches offer code incorporated in the solicitation is entered by the user at the web site (figs. 1a, 9 (element 900, 910, and 950), and 25).

Re claims **3, 21, and 39**, Gershman teaches solicitation is sent through electronic means (figs. 1a, 10a, 17, and 24). *Gershman discloses solicitation of products through web site, which is an electronic means.*

Re claims **4, 22, and 40**, Gershman teaches receiving a request further includes providing a customer identification number and using the customer identification number to verify a user (col. 41, line 51 to col. 42, line 3). *Gershman discloses a username and a password to identify a user.*

Re claims **5, 23, and 41**, Gershman teaches offer provides for adjusting existing customer account terms (col. 44, lines 49-65). *Gershman permits customers to customize their accounts thus he permits a customer to adjust existing customer account terms.*

Re claims **6, 8, 24, and 42**, Gershman teaches offer includes terms for new customers (col. 41, lines 23-50; col. 43, lines 45-65).

Re claims **7, 25-26, and 43-44**, Gershman teaches adjusting a customer's account terms based on the response (col. 47, lines 32-65; figs. 19, 23, and 25).

Re claims **9, 27, and 45**, Gershman teaches saving a user's access history (col. 11, lines 49-62; col. 40, lines 9-16; col. 47, lines 43-52).

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Re claims **10, 28, and 46**, Gershman teaches analyzing the user's access history and modifying the offer based on the analysis (col. 12, lines 46-59; col. 40, lines 9-16).

Re claims **11, 29, and 47**, Gershman teaches a customer's account is automatically updated based on the response (col. 48, lines 15-32).

Re claims **14, 17, 32, 35, 50, and 53**, Gershman teaches set of offers relate to at least one of cellular telephone products and services (col. 38, lines 65-67; figs. 9 and 16).

*Gershman discloses any type of products and services thus a cellular telephone is a type of product.*

Re claims **15, 18, 33, 36, 51, and 54**, Gershman teaches set of offers relate to financial services (col. 38, lines 57-62). *Gershman discloses financial planning.*

### Conclusion

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

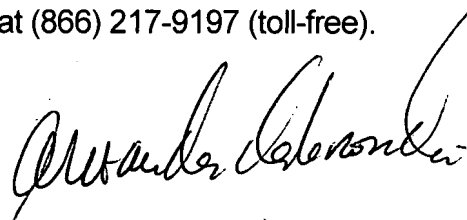
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached during her flexitime schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).

TTH  
4/25/07



ALEXANDER KALINOWSKI  
SUPERVISORY PATENT EXAMINER